IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 33019 of 2006(E)

PETITIONER:

T.P.VASUDEVAN, S/O.NARAYANAN,
HOTEL SKY PALACE, KANNUR.

BY ADV. SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
KANNUR.

2. THE CIRCLE INSPECTOR OF EXCISE,
KANNUR.

3. THE ASST.EXCISE COMMISSIONER,
KANNUR.

4. V.PURUSHOTHAMAN,
LAKSHMI SADANAM, THAVAKKARA ROAD,
KANNUR.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).NO.33019 of 2006

Dated this the 12th day of December, 2006

JUDGMENT

The petitioner is running a hotel with FL3 licence. Ext.P1 is the licence. It is having 3 star classification as evident from Ext.P2 certificate issued by the competent authority. While so, the petitioner has been served with Ext.P3 notice by the Circle Inspector of Excise, Kannur proposing to hold an inquiry to find out the distance between his hotel and Thavakkara Government Upper Primary School. Apparently, the said action was taken based on the complaint filed by the President of the Parent Teacher's Association of the said school. The petitioner submits that the said complaint based on which the inquiry is made is not made on good faith. The plaintiff in Ext.P4 suit, filed against him is behind it. He further submits that the complaint was filed before the District Collector and the District Collector forwarded it to the Excise Department. The District Collector has no power to do that. Therefore, he seeks to quash Ext.P3.

2. Ext.P3 is only a notice proposing to measure the distance of the petitioner's hotel from the nearby Government

U.P.School. If a complaint is received that the hotel is being run in violation of the distance Rules, the Excise Officials have a duty to look into it. The fact that the compliant is forwarded by the District Collector will not affect the powers of the Excise Officials to inquire into the complaint. Therefore, the challenge Ext.P3 fails. But, based on the finding arrived at by the Excise Officials pursuant to Ext.P3, if any action is proposed to be taken against the petitioner, he shall be put on notice. He shall be given an opportunity of being heard. Only after following the due process of law any final order shall be passed in this matter.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,JUDGE.

MS